

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 2/21/08 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the device engaged with a bore) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims merely recite that the rear portion is configured (i.e. has the ability) to engage a bore, the rear portion of the device of Taylor is clearly capable of engaging a bore of a firing device. Furthermore, the device of Taylor is disclosed as carried in a launching tube (i.e. a bore of a firing device) (page 1, lines 44-45). With regards to the Alford et al. reference, it is noted that the rear portion and the front portion have the same diameter and there is nothing larger on the projectile that would prevent the rear portion from engaging the bore of the firing device. Therefore the rear portion is configured (i.e. has the ability) to engage a bore.
2. Applicant's remaining arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4, 5-10, 12, 13 and 18-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Taylor (US Patent # 2,044,819). Taylor discloses a projectile that *can be* fired from a firing device comprising; a hub (i.e. front/first portion) and a body (i.e. rear/second portion) (15, 5) extending from the hub, wherein the hub and the body are rotatably joined to each other to allow the hub and the body to rotate relative to each other at different rotational velocities when fired and until the projectile impacts a target and wherein the hub and the body are *configured* (i.e. have the ability) to engage a bore of a firing device. The hub has the ability to be broken (i.e. is frangible). The hub comprises a core and a plurality of fins (reference 19) extending outwardly from the core. The fins have the ability to break (i.e. are frangible) and have the ability to break and spread radially outwardly from the core as the hub penetrates a target. A leading portion of the fins is sloped at an angle (Figure 4). The hub and the body are rotatably joined with a bearing (reference 11). The projectile is stored and carried in a launching tube and due to the diameters shown both the hub and body have the ability to engage a bore.

5. Claims 1, 4-10, 14, 15 and 18-22 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Alford et al. (US Patent # 5,452,864). Alford et al. discloses a projectile that can be fired from a firing device comprising; a first/front portion (reference 32) and second/rear portion (reference 31) extending from the first portion, wherein the first portion and second portion are rotatably joined to each other to allow the first portion and second portion to rotate relative to each other at different rotational velocities when fired and until the projectile impacts a target and wherein the first portion and second portion are *configured* (i.e. have the ability) to engage a bore of a firing device since the device is fired from a bore and there is nothing that would prevent the rear portion from engaging the bore. The first portion has the ability to be

broken (i.e. is frangible). The first portion comprises a core and a plurality of fins extending outwardly from the core. The fins have the ability to break (i.e. are frangible) and have the ability to break and spread radially outwardly from the core as the hub penetrates a target. A leading portion of the fins is sloped at an angle. The first and second portions are rotatably joined with a bearing (reference 11). Both the hub and body have the ability to engage a bore. In regards to claims 14, 15 and 18-22, Alford et al. discloses the apparatus comprising a firing device for firing a projectile, a cartridge has the ability of being chambered in the firing device, wherein the cartridge carries the projectile.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 3, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor as applied to claims 1 and 8 above. Although Taylor does not expressly disclose that a second portion has less mass than the first portion, it is obvious from the figures that the portion containing the fins would have a mass less than the body portion and it has been held that discovering an optimum or workable range involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle (Shelley) Clement whose telephone number is 571.272.6884. The examiner can normally be reached on Monday thru Thursday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571.272.6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michelle (Shelley) Clement/
Primary Examiner, Art Unit 3641